

STATE OF INDIANA)
) SS:
COUNTY OF PORTER)

IN THE PORTER CIRCUIT COURT

CAUSE NO. 64D01-0306-PL-5512

STATE OF INDIANA,)
)
Plaintiff,)
)
v.)
)
ABILITY COMPUTERS, INC.)
)
Defendant.)

FILED
IN OPEN COURT

JUN 20 2003

File Stamp
Pursuant To
TRIAL RULE 5(E)

CONSENT JUDGMENT *Dale Brewer*
CLERK PORTER CIRCUIT & SUPERIOR COURT

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, and the Defendant, Ability Computers, Inc., hereby agree to entry of a Consent Judgment without trial or adjudication of any issue of fact or law herein.

The parties believe it is in their best interest to resolve the issues raised by the State of Indiana and avoid further litigation. This Consent Judgment does not constitute an admission by the Defendant of any wrongdoing, nor shall it be construed as an abandonment by the Attorney General of his position that the Defendant violated Indiana's Deceptive Consumer Sales Act. The parties consent to entry of a final judgment in this proceeding by the Court and accept this Consent Judgment as final on the issues resolved herein.

JURISDICTION AND SCOPE OF JUDGMENT

1. This Court has jurisdiction and venue over the subject matter of this action and the parties hereto.
2. The State of Indiana's Complaint for Injunction, Restitution, Costs, and Civil Penalties states a cause of action pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code §24-5-0.5-1 *et seq.*

3. The Defendant, Ability Computers, Inc., is an Indiana corporation engaged in the sale of goods via the Internet, with a principle place of business located at 3287 Willowcreek Road, Portage, Indiana.

RELIEF ORDERED

4. The Defendant is permanently enjoined from engaging in the following acts and making, causing to be made, or permitting to be made the following representations:

- a. representing expressly or by implication that the subject of a consumer transaction has sponsorship, approval, characteristics, accessories, uses, or benefits it does not have which the Defendant knows or reasonably should know it does not have;
- b. representing expressly or by implication that the subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not and if the Defendant knows or reasonably should know it is not;
- c. representing expressly or by implication that the consumer transaction involves a warranty, or other rights, remedies, or obligations, if the representation is false and if the supplier knows or should reasonably know that the representation is false;
- d. representing expressly or by implication that the Defendant is able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when the Defendant knows or reasonably should know that it can not; and
- e. representing expressly or by implication that a consumer will be able to purchase the subject of a consumer transaction as advertised by the Defendant, if the Defendant does not intend to sell it.

5. The contracts previously entered into by the Defendant with consumers Facella, Thompson, Smith, and Reid are cancelled pursuant to Ind. Code §24-5-0.5-4(d).

6. The Defendant shall pay consumer restitution pursuant to Ind. Code §24-5-0.5-4(c)(2) in the amount of , payable to the Office of the Attorney General for allocation and distribution to the following consumers:

(a) Ron Goers of Palmyra, New York	\$ 25.00
(b) Marc Facella of Quincy, Massachusetts	\$ 109.99
(c) Bebe Thompson of Cornville, Arizona	\$ 484.13
(d) Ethan Smith of Latham, New York	\$ 264.53
(e) Roosevelt Reid of Varnville, South Carolina	\$ 61.99
(f) Roger Thureau of Marysville, Ohio	\$ 58.00
(g) Mark Nix of Taylors, South Carolina	\$ 60.00
(h) Vesnelle Rorris of Burley, Idaho	\$ 569.00
(i) Jelena Perfiljeva of Hopkins, Minnesota	\$ 147.88
(j) William Naramore of Evans Mills, New York	\$ 125.00
(k) Patrick Kelley of Tipp City, Ohio	\$ 119.97
Total:	\$2,025.49

7. The Defendant shall pay the Office of the Attorney General, pursuant to Ind. Code §24-5 -0.5-4(c)(3), the amount of Six Hundred Seventy-Five Dollars (\$675.00), representing the Plaintiff's costs of investigating and prosecuting this action.

8. The Defendant shall pay civil penalties pursuant to Ind. Code §24-5-0.5-4(g) and Ind. Code §24-5-0.5-8 for the Defendant's knowing and intentional violations of the Deceptive Consumer Sales Act, in the amount of Eight Thousand Five Hundred Dollars (\$8,500.00), payable to the State of Indiana;

For a total monetary judgment in the amount of Eleven Thousand Two Hundred Dollars and Forty-Nine Cents (\$11,200.49).

CONTINUING JURISDICTION

9. For the purpose of enforcing the provisions of this Consent Judgment, the Defendant waives any objection regarding the Court's jurisdiction to punish for contempt and agrees to appear on proper notice of a failure to comply with any of the provisions of this Judgment.

IN WITNESS WHEREOF, the parties have executed this Consent Judgment this 19 day of June, 2003.

STATE OF INDIANA
STEPHEN CARTER
Indiana Attorney General

by: Terry Tolliver
Terry Tolliver
Deputy Attorney General
Attorney No. 22556-49

ABILITY COMPUTERS, INC.

by: Arthur P. Armagast, Jr.
Arthur P. Armagast, Jr.

Approved:

William H. O'Toole
William H. O'Toole
Counsel for the Defendant

ALL OF WHICH IS APPROVED, ORDERED, ADJUDGED AND DECREED
this 19 day of June, 2003.

Porter
Judge, Porter Circuit Court

Distribution:

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